IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE FOURTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 31369 of 1998

Between:

C. Narayana S/o Rangappa
S.K.University, Sri Venkateswarapuram,
Ananthapur

..... PETITIONER

AND

1 The Vice Chancellor, S.K.Univercity,
Sri Venkateswarapuram, Ananthapur.
2 The Registrar, S.K.University,
Sri Venkateswarapuram, Ananthapur.
3 The Superintending Engineer, Engineering Section,
S.K.University, Sri Venkateswarapuram, Ananthapur.
4 Sri M. Narayanaswamy
O/o The Superintending Engineer, Sri Venkateswarapuram, Ananthapur.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ Order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings No.SKU/Estt/E3/98 dt: 4-11-1998 issued by the 1st respondent appointing the 4th respondent as Security Guard ignoring the eligibility of the petitioner as illegal, arbitrary and against the circular issued by the 2nd respondent on 10-9-98 in respect of the post of security guard and consequently direct the 1st respondent to appoint the petitioner as Security Guard in the existing vacancy on regular basis and pay all consequential benefits.

Counsel for the Petitioner:MR.GANDURI NAGESWARA RAO

Counsel for the Respondent Nos.1 to 3: MR.M.RAMALINGESWARA

REDDY(SC FOR SKU)

Counsel for the Respondent No.4:MRS K. SESHARAJYAM

The Court made the following :

ORDER:

This Writ Petition is filed seeking a Mandamus declaring the proceedings of the first respondent, dated 4.11.1998 appointing the fourth respondent as Security Guard, ignoring the eligibility of the petitioner, as arbitrary, illegal and contrary to the Circular issued by the second respondent, dated 10.9.1998 and consequently to direct the first respondent to appoint the petitioner as Security Guard in the existing vacancy.

It is the case of the petitioner that he is an X-Serviceman and was selected and appointed as a Security Guard by the first respondent-University on 17.11.1993 on a consolidated pay of Rs.1,000/- per month initially for a period of one year. Thereafter, his services were extended until further orders, by order, dated 18.1.1995. Thus the petitioner has been discharging his duties as a Security Guard with the respondents-University without any blemish from any corner. The petitioner as well as another person working as Security Guards, submitted representations to the second respondent on 29.12.1995 requesting to enhance the payment from Rs.1,000/- to Rs.2,000/- per month, however, the first respondent, through orders, dated 29.7.1997 enhanced the monthly payment from Rs.1,000/- to Rs.1,500/-. Right from 17.11.1993 the petitioner has been discharging his duties as a Security Guard in a clear vacancy and therefore, he is entitled for regularization of his services in the said post. While so, the second respondent issued a circular on 10.9.1998 inviting applications from the internal candidates to fill up various posts including Security Guards and the reservation particulars were also mentioned in the said circular. One vacancy of Security Guard was notified in the said circular and it was reserved for O.C. category. The second respondent issued memo, dated 5.10.1998 directing the petitioner to appear before the interview committee on 13.10.1998 and accordingly, the petitioner appeared before the interview committee. In all, two Security Guards were working in the respondents-University i.e. the petitioner and another person. The petitioner is entitled for regularization of his services since he has completed

more than five years of service. However, to the utter surprise of the petitioner, by proceedings, dated 4.11.1998, the first respondent appointed the fourth respondent, who belongs to B.C.(B) category as Security Guard, on regular pay scale and directed him to report for duty on or before 18.11.1998. Though the petitioner is senior most in the cadre of Security Guards, the respondents-University have not taken the same into consideration and instead of filling up the vacancy by O.C. candidate, they have filled up the same with the person, who belongs to B.C. (B) category. Therefore, the appointment of the fourth respondent through the impugned order, dated 4.11.1998 is arbitrary and illegal.

Two counter affidavits have been filed, one on behalf of respondents 1 to 3, and the other, on behalf of respondent No.4, denying the allegations made by the petitioner. Insofar as the allegation of the petitioner that first respondent appointed the fourth respondent ignoring the seniority and eligibility of the petitioner is concerned, it is stated that when the post is advertised, the question of seniority does not arise. It is stated that for O.C. category, any category of candidates can be considered and appointed and there is no restriction of appointing only persons belong to O.C. category. The selection committee after duly taking into account the interview performance, age of the candidates, physical fitness etc., selected the fourth respondent for the post of Security Guard. The recommendations of the selection committee were placed before the authorities of the first respondent-University, in turn, the first respondent-University issued the impugned orders appointing the fourth respondent as Security Guard.

Insofar as fourth respondent is concerned, he has asserted that he has taken over the charge as Security Guard immediately after the appointment orders were issued.

The only question that falls for consideration is whether any person belongs to B.C. (B) category can be appointed against an open category vacancy.

The law is well settled that there is no bar for any person, who belongs to S.C., S.T., B.C., etc., to compete for post notified under the category of O.C. In this case, admittedly, the fourth respondent is a young man aged about 30 years and the selection committee, having regard to the same, has recommended the case of the fourth respondent for appointment to the post of Security Guard. Admittedly, the petitioner was about more than 50 years at the time of interview and therefore, the selection committee has taken a decision that he was not suitable for appointment to

the post of Security Guard. Apart from this, though the selection is limited to the in-service candidates, that itself does not mean that while selecting the candidates, only seniority has to be taken into consideration and not the suitability of the person. In this case, the selection committee has come to the conclusion that the fourth respondent is suitable person and accordingly recommended for appointment and the said recommendation was approved by the executive council of the respondents-University. Therefore, the Writ Petition is devoid of merits. However, it is submitted by the learned counsel for the petitioner that in pursuance of the interim orders of this Court in W.P.M.P.No.38452 of 1998, dated 11.11.1998, the petitioner is being continued in service and now, he is at the verge of retirement. Keeping in view of long service rendered by the petitioner and also the fact that he is at the verge of retirement, the respondents are directed to consider the case of the petitioner for appointment to any of the suitable post before he attains the age of superannuation.

With the above observation, the Writ Petition is disposed of. No costs.

_____ C.V.RAMULU, J

04th JULY, 2005

tsr.

To

1 The Vice Chancellor, S.K.Univercity,
Sri Venkateswarapuram, Ananthapur.

2 The Registrar, S.K.University,
Sri Venkateswarapuram, Ananthapur.
3 The Superintending Engineer, Engineering Section,
S.K.University, Sri Venkateswarapuram, Ananthapur

4. 2 C.D. copies